

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

## **COMMODITY FUTURES TRADING COMMISSION, et al.,**

*Plaintiffs,*

**TMTE, INC. a/ka Metals.com,  
et al.,**

### *Defendants.*

卷之三

**CIVIL ACTION NO. 3:30-CV-02910-L**

**DECLARATION OF CARLOS CRUZ PURSUANT TO 28 U.S.C. § 1746**

I, Carlos Cruz, declare under penalty of perjury, and on the basis of my personal knowledge, the following:

1. I make this Declaration for the Court's consideration in response to the September 16, 2021 Emergency Motion for "Show Cause" Hearing to Hold Defendants Lucas Asher and Simon Batashvili in Civil Contempt, filed by Kelly M. Crawford, Esq., the Receiver for Defendants and Relief Defendants in *Commodity Futures Trading Commission, et al. v. TMTE, Inc. a/k/a "Metals.com," et al.*, No. 30 Civ. 2910 (N.D. Tx. filed September 22, 2020) (the "Receiver" and "CFTC Action" respectively).

2. I founded Portfolio Insider, LLC (“Portfolio Insider” or the “Company”) in or about October 2020.

3. I alone have owned, controlled, and managed Portfolio Insider from the date of its founding through the date it ceased operations.

4. I was responsible for hiring, firing, and supervising employees and contractors of Portfolio Insider.

5. Lucas Asher and Simon Batashvili have never, separately or together, owned or controlled, directly or indirectly, beneficially or otherwise, Portfolio Insider or any assets of Portfolio Insider. The same is true as of the date of this Declaration.

6. Neither Lucas Asher, nor Simon Batashvili, caused or induced me to start Portfolio Insider. The idea of starting Portfolio Insider was mine.

7. Neither Lucas Asher, nor Simon Batashvili, have possession, custody or control of any records regarding Portfolio Insider. Nor have Messrs. Asher or Batashvili ever had possession, custody or control of any such records.

8. Neither Lucas Asher, nor Simon Batashvili, have information to provide an “accounting” of monies received by Portfolio Insider, including, but not limited to, the disbursement of funds received by Portfolio Insider, or bank accounts that received monies of Portfolio Insider. Nor have Messrs. Asher or Batashvili ever had possession, custody or control of such information.

9. Portfolio Insider is not the same as, and never has been affiliated with, Retirement Insider, LLC. I do not own or control, and never have owned or controlled, any entity by that name. Nor does Portfolio Insider share any bank or other financial accounts with Retirement insider. Portfolio Insider did not share office space with Retirement Insider.

10. Lucas Asher and Simon Batashvili performed limited—and entirely unpaid—work for Portfolio Insider, including negotiating some contracts and operational tasks such as purchasing. Any such tasks were subject to my instruction and neither received payment for this work.

11. Portfolio Insider was a financial data software company. The company's business was to provide software that aggregates financial data, culled from a range of data sources, and provides that data in usable form to consumers. The data sources include exchanges such as the NASDAQ as well as public filings including from the Securities and Exchange Commission.

12. Portfolio Insider was not in the business of providing investment advice.

13. Portfolio Insider did not engage in the trading of securities or commodities on behalf of itself or on behalf of customers. It simply provided financial data software to be used by consumers to make their own trading decisions.

14. Portfolio Insider received no compensation connected with any securities trading its customers may have conducted using trading data provided by Portfolio Insider.

15. In or about September 2021, Portfolio Insider learned from two of its major vendors—the NASDAQ, which provided financial data, and Pipedrive, which provided a sales customer relationship management tool—that they were terminating their relationships with Portfolio Insider because they had been contacted by the Receiver in this case, despite the fact that, to my knowledge, Portfolio Insider has never been declared a Receivership Defendant or Relief Entity under any of this Court's Orders.

16. As a result of the Receiver's actions, Portfolio Insider has since ceased operations.

Executed on May 09, 2022 in Los Angeles, California

  
\_\_\_\_\_  
Carlos Cruz